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C.A. 1002

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 3525 / 2004

PETITIONER

1) **Krishna Ku. Bhaina**
S/o Late Bahorik Singh
Aged about 33 years,
R/o- village Bhaiskattal, Ward No-13
Tehsil/P.S- Korba
Dist- Korba (C.G)

2) **Smt. Amrit Bai**
W/o- Late Chetram
Aged about 46 years,
R/o- Kabir Chowra, Near Bajrangbali
Mandir, Kasinagar, Korba
P.S- Rampur, Korba (C.G)

P.R. No. 3425/04
Presented by Shri H. T. Ahluwalia
dated 21-9-04

Versus

RESPONDENTS

1. **Chhattisgarh State Electricity Board,**
Through its Secretary, C.S.E.B., Raipur
Raipur (C.G)

2. Chief Executive Engineer,
C.S.E.B. Korba (CG)

3. State of Madhya Pradesh,
Through Secretary, M.P.E.B,
Rampur, Jabalpur (M.P)

4. Joint Secretary (Karmik)-1
M.P.E.B, Jabalpur (MP)

5. Union of India,
Through Ministry of Personnel & Training (State Reorganization Cell), Khan Market, New Delhi.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE WRIT ORDER OF DIRECTION TO DO JUSTICE IN THE MATTER.

09/04

AR/5

MADHYA PRADESH STATE ELECTRICITY BOARD

THROUGH THE SECRETARY

SHAKTI BHAWAN, JABALPUR (M.P.)

...RTICLE 226/227 OF THE CONSTITUTION OF

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.3525/2004 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

7.7.2006

Shri H.S. Ahluwalia, learned counsel for the petitioner.

Shri A.S Gaharwar, learned counsel for respondents 1 and 2.

Shri P.S Nair, learned Senior Advocate, with Shri P.S Koshi, learned counsel for respondents 3,4 and 6.

Shri S.K. Beriwal, learned counsel for respondent no. 5.

Heard.

This writ petition has been filed by the two petitioners for their separate cause of action. As the petitioner No.2 is claiming compassionate appointment on account of the death of her husband, the learned Advocate for petitioner No.2 seeks permission of the Court to withdraw the writ petition with liberty to file a fresh petition on her behalf. The petition of petitioner No. 2 is dismissed as withdrawn with the liberty aforesaid.

By this writ petition, the petitioner namely Krishna Ku. Bhaina has prayed for a direction to the respondents to consider the case of the petitioner for compassionate appointment.

The case of the petitioner is that his father late Shri Bhahorik Singh was working as Plant Supervisor Grade-III in the office of the Executive Engineer (BMD - I), HTPS, Korba and he died on 5/9/1997 on which the petitioner made an application for compassionate appointment. However,

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(122)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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the application remained pending and on 28/2/2004 the Chhattisgarh State Electricity Board, the first respondent herein, issued a circular (Annexure-P/5) in which it has been mentioned that the dependents of the employees who died on or after 15/11/2000 are entitled for compassionate appointment. It is an admitted position that the father of the petitioner died in the year 1997 and in the same year he applied for the compassionate appointment and at that time the policy with regard to the compassionate appointment dated 30/01/1997 was in force. The reply of the Chhattisgarh State Electricity Board is that since it came into existence w.e.f. 15/11/2000, therefore, as per the policy the dependants of those employees who died on or after 15/11/2000 are entitled for compassionate appointment. It is also an admitted position that the father of the petitioner was the employee of the erstwhile Madhya Pradesh Electricity Board and on account of the Madhya Pradesh Reorganisation Act, 2000 the State of Chhattisgarh was carved out w.e.f. 01/11/2000 and thereafter the Madhya Pradesh Electricity Board was also bifurcated w.e.f. 15/11/2000. As per the provisions of sub-Section (4) of Section 58 of the Madhya Pradesh Reorganisation Act, 2000 the assets and liabilities and employees of undivided Board were to be distributed among the MPEB and the CSEB. Vide order dated 6th January 2004, the Government of India, Ministry of

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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Power, issued an order in which it has been mentioned that representatives of both the States agreed in a meeting taken by Secretary, Power on 20th March 2003 that the division of employees would be in line with policy adopted for division of employees of Madhya Pradesh Government. In Para 2, it has been mentioned that the matter has been considered and in partial modification of provisional order dated 12th April 2001 so far as relating to the division of employees it has been decided finally to divide the posts and employees on the lines followed by DOPT for allocation of posts and employees of the State Government of erstwhile Madhya Pradesh for making allocation of posts and persons to the successor Electricity Board of MPEB on the principle that posts relatable to territorial jurisdiction of a successor State may be allotted to respective State and similarly employees belonging to such sub State territorial cadres being allocated to concerned State and only dividing the remaining posts and employees between the two States, the Government of India has decided to appoint a three members Committee. Therefore, w.e.f. 15/11/2000 the Madhya Pradesh Electricity Board was bifurcated and on this principle the employees of MPEB who were working in the territory of newly created Chhattisgarh are to be allocated to the successor Chhattisgarh State Electricity Board that is the employees who were

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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working before that date in the State of Chhattisgarh came to the share of the CSEB and the employees who were working in the State of Madhya Pradesh came to the share of the MPEB. As the father of the petitioner was working in the territorial jurisdiction of the CSEB, therefore, petitioner's liability of compassionate appointment lies on the shoulder of the CSEB and the CSEB is the only appropriate Board where the petitioner was entitled for compassionate appointment. The application for compassionate appointment was made within time and at that time the policy for compassionate appointment in existing was dated 30/01/1997. Accordingly, the respondent-CSEB is duty bound to consider the application of the petitioner in accordance with the policy dated 30/01/1997 and in this case the policy dated 28/-2/2004 cannot be made applicable.

For the foregoing reasons, the petition of petitioner – Krishna Ku. Bhaina is allowed and the respondent – CSEB is directed to consider the case of the petitioner for compassionate appointment in accordance with the policy dated 30/01/1997.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

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Ranjeeth

17-2-16 18/2 24/2/16 25-02-16